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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,698	07/14/2006	Masanori Sakai	2342-0142PUS1	9561
2292 7590 03/04/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
CHEN, KEATH T				
ART UNIT		PAPER NUMBER		
1792				
NOTIFICATION DATE		DELIVERY MODE		
03/04/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

DETAILED ACTION

1. The proposed After Final amendment, filed on 02/14/2008, will not be entered because it raises new issues for further consideration, such as adding new limitations to claims 1, 9, and 10.

Response to Arguments

Applicant's arguments filed on 02/14/2008 have been fully considered but they are not persuasive.

2. Applicant's arguments that the rejection of claim 4 under 35 USC 103(a) by a combination of Hatano (US 5709757, '757) and Miyazaki (US 5252133, '133) are based on

a. Hatano teaches only supply 208 as process gas, see last 5 lines of page 6 to top 7 lines of page 7.

b. Applicant limits Hatano's apparatus to "a film forming process and etching process". Applicant further challenge the motivation to combine because "improving gas uniformity and disposing the gas changing point ... are totally different". See the 2nd complete paragraph of page 7.

c. Applicant argues that it is not clear to applicant what the modified Hatano device would look like and again question the motivation to combine.

In response to:

a. Hatano apparatus is capable of supplying two process gases to the reactor. The examiner points out again that alternating supply two process gas is intended use (see the final action, page 6, 7th line from the rejection label 3). In

response to applicant's argument that Hatano's does not teach two process gases, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

b. A person having ordinary skill in the art would have known Hatano's apparatus is capable of supplying two process gases, unlike applicant's assertion that appears to be Hatano's apparatus is limited to a film forming processing (with one processing gas) and (followed by) etching (with another gas).

Miyazaki teaches gas uniformity is improved by connecting two gases inside the chamber over two separate gas feed tube (Fig. 9). This is sufficient information for a person of ordinary skill in the art to consider its suitability (see case law citation, the 2nd last paragraph of page 7, final action) to use with a motivation of good uniformity.

c. The examiner maintains the combination of Miyazaki and Hatano is clearly layout in the first and the final action. There are numerous ways to modify equipment in Fig. 3 of Hatano for a person with ordinary skill in the art, unlike the applicant's suggestion of adding two lines after MFC 222. One example is to move the connection of V22-V25 away from V'' and directly to the 2nd gas feed line (221 of Miyazaki). The motivation to combine is already replied above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keath T. Chen whose telephone number is 571-270-1870. The examiner can normally be reached on M-F, 8:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Cleveland can be reached on 571-272-1418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. T. C./
Examiner, Art Unit 1792

/Michael Cleveland/

Supervisory Patent Examiner, Art Unit 1792

